IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
NOTICE OF MOTION NO. 2150 OF 2003
In
SUIT NO. 3271 OF 2002

Lotte Holdings Pvt. Ltd., & Ors. ..Plaintiffs.

Versus

Krishna Lifestyle Technologies Ltd. & Ors. ..Defendants.

Simil Purohit i/by Amarchand & Mangaldas & S.A. Shroff & Co. for the Plaintiffs.

Mr. Fafeeq Peermohideen a/w. Ms. Kamaldeep Sagar i/by Paras Kuhad & Associates for the Defendants.

CORAM : S. J. VAZIFDAR, J.
DATED : 18TH NOVEMBER,2005.

P.C.:

1. Notice of Motion is misconceived.

2. The plaintiffs seek an order, restraining the defendants from using and / or producing in evidence four cheques issued by the plaintiffs in favour of the defendant No.1, which were dishonoured. The plaintiffs have also sought an appointment of a court receiver in respect of the said cheques and for an order, directing the defendants to deliver back the said cheques to the plaintiffs for cancellation.

3. That the cheques were dishonoured is not denied. The plaintiffs' case is that a settlement was

arrived at in a writing dated 17th September, 1999 whereunder an amount of Rs.1,40,00,000/- was paid by the plaintiffs to the defendants in full and final satisfaction of their claim. The execution of this agreement is denied.

4. The defendants adopted proceedings under section 138 of the Negotiable Instruments Act against the plaintiffs. The plaintiffs' application for quashing the complaint was dismissed. A writ petition against that order has been admitted by this court and the proceedings before the criminal court have been stayed.

5. The issue regarding the alleged settlement will necessarily have to be decided in the criminal proceedings / writ petition. There is no warrant for this court to interfere with the same. To grant the reliefs prayed for in this notice of motion will amount to interfering with the said proceedings.

6. In any event, the proceedings in the criminal court have been stayed.

7. In the circumstances, the notice of motion is dismissed.

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